

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHERYL LYNN KELLY,

Defendant.

Case No. 3:22-cr-00048-SLG-MMS

**ORDER RE MOTION FOR REDUCTION OF SENTENCE**

Before the Court is Defendant Cheryl Lynn Kelly's Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. Amendment 821 at Docket 128. Appointed counsel filed a notice that no amended motion would be filed.<sup>1</sup> The Government filed a response in opposition at Docket 134. The U.S. Probation Office for the District of Alaska filed a sealed Preliminary Report for Consideration of Sentence Reduction at Docket 135.

On September 11, 2023, this Court sentenced Ms. Kelly to 72 months' imprisonment after she pled guilty drug conspiracy.<sup>2</sup> Ms. Kelly received a two-level increase in her offense level pursuant to United States Sentencing Guideline

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<sup>1</sup> Docket 131.

<sup>2</sup> Docket 96 at 1-2.

§ 3B1.1(c) due to her role as an organizer, leader, manager, or supervisor in the drug conspiracy.<sup>3</sup> She had zero criminal history points.<sup>4</sup>

Ms. Kelly now seeks a sentence reduction pursuant to Amendment 821, found at Guideline § 4C1.1, which applies to defendants with zero criminal history points.<sup>5</sup> The Government disagrees, maintaining that Ms. Kelly does not satisfy the requirements in § 4C1.1 and she is therefore ineligible for relief.<sup>6</sup>

Under § 4C1.1, a defendant who has zero criminal history points is eligible for a two-level reduction in her offense level if she “meets all” the criteria set out in Guideline § 4C1.1(a)(1)-(10). Among other requirements, Guideline § 4C1.1(10) provides that, to be eligible for the reduction, the defendant cannot have “receive[d] an adjustment under § 3B1.1 (Aggravating Role).” Because Ms. Kelly received an adjustment under § 3B1.1, she is ineligible for a sentence reduction pursuant to Amendment 821 and Guideline § 4C1.1.<sup>7</sup> As such, Defendant’s Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) at Docket 128 is **DENIED**.

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<sup>3</sup> Docket 80 at 10 (sealed presentence report). Ms. Kelly objected to the enhancement, Docket 80 at 23 (sealed), but the Court adopted the presentence report without change, Docket 97 at 1 (sealed statement of reasons).

<sup>4</sup> Docket 80 at 14 (sealed).

<sup>5</sup> Docket 128 at 1.

<sup>6</sup> Docket 134 at 4.

<sup>7</sup> See Docket 135 at 1 (sealed).

DATED this 2nd day of August 2024, at Anchorage, Alaska.

/s/ Sharon L. Gleason

UNITED STATES DISTRICT JUDGE